

§ 40.382

(2) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(d) *Change in location.* If there is a change in location of a taxable place of business, the manufacturer shall within 30 days after the change, file with ATF an amended special tax return covering the new location. The manufacturer shall attach the special tax stamp or stamps for endorsement of the change in location. No new special tax is required to be paid. However, if the manufacturer does not file the amended return within 30 days, the manufacturer is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

GENERAL

§ 40.382 Authority of ATF officers to enter premises.

Any ATF officer may enter in the daytime any premises where cigarette papers and tubes are produced or kept, so far as it may be necessary for the purpose of examining such articles. When such premises are open at night, any ATF officer may enter them, while so open, in the performance of his or her official duties. The owner of such premises, or person having the superintendence of the same, who refuses to admit any ATF officer or permit any ATF officer to examine such cigarette papers and tubes shall be liable to the penalties prescribed by law for the offense.

(68A Stat. 872; 903 26 U.S.C. 7342, 7606)

§ 40.383 Interference with administration.

Whoever, corruptly or by force or threats of force, endeavors to hinder or obstruct the administration of this subpart, or endeavors to intimidate or impede any ATF officer acting in an official capacity, or forcibly rescues or attempts to rescue or causes to be rescued any property, after it has been duly seized for forfeiture to the United

27 CFR Ch. I (4-1-03 Edition)

States in connection with a violation or intended violation of this subpart, shall be liable to the penalties prescribed by law.

(68A Stat. 855; 26 U.S.C. 7212)

§ 40.384 Disposal of forfeited, condemned, and abandoned cigarette papers and tubes.

Forfeited, condemned, or abandoned cigarette papers or tubes in the custody of a Federal, State, or local officer upon which the Federal tax has not been paid shall not be sold or caused to be sold for consumption in the United States if, in the opinion of the officer, the sale of such papers and tubes will not bring a price equal to the tax due and payable, and the expenses incident to the sale. Where the cigarette papers or tubes are not sold the officer may deliver them to a Federal or State institution (if they are fit for consumption) or cause their destruction by burning completely or by rendering them unfit for consumption. Where such papers or tubes are sold, release by the officer having custody shall be made only after such papers and tubes are properly packaged and taxpaid. A receipt from the regional director (compliance) evidencing payment of tax on such papers or tubes shall be presented to the officer having custody of the articles, which tax shall be considered part of the sales price. Where cigarette papers or tubes which have been packaged under the provisions of part 45 of this chapter are to be released after payment of tax, the purchaser shall appropriately mark each package "Federal Tax Paid (date)" before the officer having custody of the papers or tubes releases them. However, the articles may be released without such marking of the packages if the purchaser is a qualified manufacturer of cigarette papers and tubes and does not intend to place such papers or tubes on the domestic market for taxable articles but will otherwise dispose of them. A written statement of notification of disposal by destruction or return to bond through claim for refund, shall be filed, in original only, with the officer having custody of the articles. In the case of cigarette papers and tubes forfeited under the internal revenue laws, the sale shall be subject to

the provisions of part 72 of this chapter.

(68A Stat. 870, as amended, 72 Stat. 1425, as amended; 26 U.S.C. 7325, 5753)

[26 FR 8174, Aug. 31, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated at 54 FR 48839, Nov. 27, 1989, and further redesignated by T.D. ATF-460, 66 FR 39093, July 27, 2001, as amended by T.D. ATF-469, 66 FR 56758, Nov. 13, 2001]

§ 40.385 Alternate methods or procedures.

A manufacturer of cigarette papers and tubes, on specific approval by the Director as provided in this section, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this subpart. The Director may approve an alternate method or procedure, subject to stated conditions, when the Director finds that—

(a) Good cause has been shown for the use of the alternate method or procedure,

(b) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure, and affords equivalent security to the revenue, and

(c) The alternate method or procedure will not be contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this subpart.

No alternate method or procedure relating to the giving of any bond or to the assessment, payment, or collection of tax, shall be authorized under this section. A manufacturer who desires to employ an alternate method or procedure shall submit a written application, in triplicate, to the regional director (compliance) for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure, and shall set forth the reasons therefor. Alternate methods or procedures shall not be employed until the application has been approved by the Director. The manufacturer shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization for any alternate method or procedure

may be withdrawn whenever, in the judgment of the Director, the revenue is jeopardized or the effective administration of this part is hindered. Any authorization of the Director under this section shall be retained as part of the manufacturer's record in accordance with this subpart.

§ 40.386 Emergency variations from requirements.

The Director may approve methods of operation other than as specified in this subpart, where it is determined that an emergency exists and the proposed variations from the specified requirements are necessary, and the proposed variations—

(a) Will afford the security and protection to the revenue intended by the prescribed specifications;

(b) Will not hinder the effective administration of this subpart; and

(c) Will not be contrary to any provision of law. Variations from requirements granted under this section are conditioned on compliance with the procedures, conditions, and limitations set forth in the approval of the application. Failure to comply in good faith with such procedures, conditions and limitations shall automatically terminate the authority for such variations and the manufacturer thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever in the judgment of the Director the revenue is jeopardized or the effective administration of this subpart is hindered by the continuation of such variation. Where a manufacturer desires to employ such variation, the manufacturer shall submit a written application to do so (in triplicate) to the regional director (compliance) for transmittal to the Director. The application shall describe the proposed variations and set forth the reasons therefor. Variations shall not be employed until the application has been approved. In accordance with this subpart, any authorization of the Director under this section shall be retained as part of the manufacturer's records.